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March 21, 1997

BY HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: MM Docket No. 91-221 -- Review of the Commission's Regulations Governing Television Broadcasting; and MM Docket No. 87-7 -- Television Satellite Stations Review of Policy and Rules

Dear Mr. Caton:

Transmitted herewith for filing, on behalf of National Broadcasting Company, Inc., is an original and 11 copies of their Reply Comments in the above-referenced dockets.

Please direct any questions that you may have to the undersigned.

Respectfully submitted,

Lawrence R. Sidman

Lawrence R. Sidman

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Commission's Regulations Governing Television Broadcasting	)))	MM Docket No. 91-221
	)	
	)	
Television Satellite Stations Review of Policy and Rules	))	MM Docket No. 87-7

REPLY COMMENTS OF NATIONAL BROADCASTING COMPANY, INC.

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March 21, 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Commission's Regulations Governing Television Broadcasting	)	MM Docket No. 91-221
	)	
Television Satellite Stations Review of Policy and Rules	)	MM Docket No. 87-7

REPLY COMMENTS OF NATIONAL BROADCASTING COMPANY, INC.

National Broadcasting Company, Inc. ("NBC") files these Reply Comments in response to the Commission's Second Further Notice of Proposed Rulemaking ("Second Further Notice")[1/] in the above-referenced Dockets.

The overwhelming weight of the Comments received by the Commission, as well as new technological and commercial developments occurring since the Comments were filed, underscore the outmoded and irrational nature of the current duopoly rule. Relief from the duopoly rule is absolutely essential if free, over-the-air broadcasters are to compete effectively against multichannel video programming distributors offering paying subscribers many hundreds of channels of programming. Accordingly, NBC reaffirms its view that the Commission should revise the duopoly rule to permit the common ownership of two television stations with overlapping Grade A signal contours

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1/ Review of the Commission's Regulations Governing Television Broadcasting; Television Satellite Stations Review of Policy and Rules, Second Further Notice of Proposed Rulemaking, MM Docket Nos. 91-221, 87-7, FCC 96-438, (Released November 7, 1996)("Second Further Notice").

where one or both of the stations is UHF, unless the Commission expressly determines that the combination would cause demonstrable harm to competition or diversity in the affected local market.

The recently announced proposed merger of ASkyB and Echostar into a Direct Broadcast Satellite ("DBS") behemoth highlights just how breathtakingly anachronistic the duopoly rule is. According to published reports, the new venture, Sky, if approved by regulators, will control 50 of the 96 DBS channels capable of covering the entire United States. If Sky's claims of 10:1 digital compression ratio are to be believed, Sky will be beaming 500 channels of programming across the United States. Moreover, due to claimed advances in "spot-beam" technology, Sky proposes that it will be able to retransmit local broadcast signals to 75 percent of U.S. households.

Another just announced example of technological advance sweeping over the regulatory landscape is "Cable Plus," a proposed offering by Primestar, the DBS service owned by a consortium of leading cable MSOs, allowing the overlay of 80-150 channels of DBS service on top of existing cable service which, of course, includes retransmission of local broadcast signals. In addition, TCI, recently announced its intention to roll out its "ALL TV" digital offering in a majority of its markets. "ALL-TV" provides the cable operator with the opportunity to offer 80 digital channels in addition to 50 conventional channels.

In each of these instances, if these proposals are, in fact, implemented, one multichannel video programming distributor will be offering hundreds of channels of programming, including local broadcast signals, to paying subscribers in any given market. When considered in this context, how can the Commission be so concerned that common ownership of just two channels of broadcast television in a local market poses an unacceptable threat to diversity? These new developments illustrate starkly that there is an almost total regulatory disconnect between the duopoly rule and the evolving video programming marketplace.

NBC respectfully suggests that relaxation of the duopoly rule by the Commission would be a very modest, even minimalist, regulatory response to the exponential increases in channels of programming provided by pay services to their subscribers. It would afford broadcasters the opportunity to realize some scant fraction of the efficiencies and economies of scale being achieved by digital, multichannel video programming distribution competitors. Such an easing of the duopoly rule would strike an appropriate balance between the imperative of preserving a vibrant, free, over-the-air broadcast system and safeguarding diversity at the local level. The time is at hand to modernize the duopoly rule to afford free, over-the-air broadcasters some semblance of fair competitive opportunity against pay video services possessing vastly greater channel capacity.

Respectfully submitted,

Diane Zipursky / LRS

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